

WEST VIRGINIA DIVISION OF LABOR

1900 Kanawha Boulevard East - State Capitol Complex – Building 3, Room 200 - Charleston, WV 25305

Email: WageandHour@wv.gov - Fax: (304)558-3797 - Telephone: (304)558-7890 – Website: labor.wv.gov



August 20, 2019

Richard Zatelli, Owner
National Polishing Systems, Inc.
5145 Brecksville Rd. Suite 101
Richfield, OH 44286

Re: West Virginia Jobs Act – Notice of Penalties

By email to: jennz@nationalpolishing.com

Mr. Zatelli:

We have reviewed the certified payroll records submitted by National Polishing Systems, Inc. to the Division of Labor (“Division”) for work performed by your company pursuant to the Contract for State Project # 6242 (the “Contract”). The Contract included provisions regarding your obligations to comply with the West Virginia Jobs Act (“Jobs Act”).

The Jobs Act has specific requirements for hiring employees from the local labor market on any public improvement project that is funded entirely from state, county, or municipality funds. This project set forth in the Contract falls under Jobs Act requirements.

To determine the extent or lack of your company’s compliance with the Jobs Act local labor market requirements, the Division has carefully reviewed your certified payroll records for week ending July 27, 2019, along with any waiver certificates, if applicable, issued by Workforce West Virginia.

Based on our review of your records, and with the understanding that the project is still on-going, we have identified the days through July 27, 2019 in which your company has not complied with its obligation to employ individuals from the local labor market. For each day that your company had employees working on this project without employing at least 75% of employees from the local labor market, the Division determined there were five (5) violations of the Jobs Act.

Based on the number of violations noted above, the Division has determined that the civil penalties total **\$1,250.00**. This amount is due and payable to the West Virginia Division of Labor within **ten (10) days** of receipt of this letter.

If National Polishing Systems, Inc. continues to violate any provision of this article more than fourteen (14) calendar days after receipt of this notice of penalty you will be subject to a civil penalty of five hundred dollars (\$500) per each employee less than the required threshold of seventy-five percent (75%) per day of violation. This civil penalty terminates upon compliance or upon issuance of a waiver by Workforce West Virginia.

Richard Zatelli
August 20, 2019
Page Two

You are also advised that, in addition to the Jobs Act violations, there are certain grounds for discipline that the West Virginia Contractor Licensing Board (the "Board") may consider in connection with your WV Contractor License Number WV046698. These grounds are the "[w]illful departure from or disregard of plans or specifications in any material respect without the consent of the parties to the contract; [and the] [w]illful or deliberate violation of the building laws or regulations of the state..." W. Va. Code § 21-11-14(g) (3-4). If, after a hearing before the Board, it finds that any of the above violations occurred, it has the statutory authority to impose the following disciplinary actions: permanently revoke a license; suspend a license for a specified period; censure or reprimand a licensee; impose limitations or conditions on the professional practice of a licensee; impose requirements for remedial professional education to correct deficiencies in the education, training and skill of a licensee; impose a probationary period requiring a licensee to report regularly to the Board on matters related to the grounds for probation; order a contractor who has been found, after hearing, to have violated any provision of this article or the rules of the Board to provide, as a condition of licensure, assurance of financial responsibility; and impose a fine not to exceed one thousand dollars. W. Va. Code § 21-11-14 (a) (1-8).

Should you wish to contest the matters set forth in this letter, within ten (10) days of receipt of this notice of penalty, an employer may submit a written request to the Commissioner for an informal presentation of views to discuss the violations or this penalty. If the matter is not resolved, the Division will schedule a hearing to be conducted pursuant to the procedures set forth in the Contested Cases article of the State Administrative Procedures Act, W. Va. Code §29A-5-1, *et seq.* In accordance with W. Va. Code §29A-5-1(a), you will be provided with a written notice of the hearing date, time, and place at least ten (10) days prior to the hearing.

If you have any questions, please do not hesitate to contact William F. Jordan, Wage & Hour Director at 304.380.9345.

Sincerely,



Mitchell E. Woodrum, Commissioner
Division of Labor

cc: Michael S. Sams, Deputy Commissioner, Division of Labor (michael.s.sams@wv.gov)
William F. Jordan, Wage and Hour Director, Division of Labor (william.f.jordan@wv.gov)
Leslie Wellman, Purchasing Director, Mercer County BOE (lwellman@k12.wv.us)
Dee Braun, Comptroller, DCI Shires Inc (deebraun@dcishires.com)
David L. Roach, Executive Director, School Building Authority (david.l.roach@wv.gov)